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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR            | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|---------------------------------|---------------------|------------------|
| 10/777,594      | 02/13/2004  | Karen Lee a.k.a. Kerri L. Marak |                     | 4955             |

7590

10/18/2005

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| EXAMINER |
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STASHICK, ANTHONY D

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| ART UNIT | PAPER NUMBER |
|----------|--------------|

3728

DATE MAILED: 10/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/777,594

Applicant(s)

MARAK, KAREN LEE A.K.A. KERRI L.

Examiner

Anthony Stashick

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 02132004.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 2-5 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 2 contains the phrase “to which said straps containing a locking pin attachment piece **may** be attached.” (emphasis added). It is not clear whether applicant is claiming the attachment of the straps or whether this may occur. Applicant has not positively claimed the attachment of the straps. Claim 3 contains the phrase “...may be covered...” which renders it so because it is not clear whether the straps are covered or not. Also, it is not clear whether the covering means is positively recited as it is claimed that they “will be provided”. With respect to claims 4 and 5, these claims also contain the term “may” in the claim that renders the claim vague and indefinite. It is not clear whether the parts are affixed or not.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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4. Claims 1-3 and 6-7 are rejected under 35 U.S.C. 102(b) as being anticipated by the reference to Caligari et al GB 2,143,420 (GB '420). GB '420 discloses all the limitations of the claims including the following: shoes 12 having exchangeable straps 31 with means for attaching and detaching the straps 32; the means of attaching and detaching straps comprising a guide loop attachment point (see end of straps 31 in Figure 5) to which the straps containing a locking pin attachment 32 piece may be affixed; straps may be covered to change the appearance of the shoe (straps can receive hook and loop or other fasteners to attach covering straps); the covering means will be provided (covering means can be provided for the straps); a shoe base 14; shoe strap 31 or straps; means for joining shoe straps to the shoe base 31, 32; shoe base containing guide loop attachment points 33; a shoe strap or straps 31 containing locking pin attachment pieces 32.

5. Claims 1, 6 and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Jneid 5,992,058. Jneid '058 discloses all the limitations of the claims including the following: shoes 10 having exchangeable straps 20, 21, 22; means of attaching and detaching straps is provided 24, 25; a shoe base 12; shoe strap or straps 20, 21, 22; means for joining shoe straps to the shoe base 24, 25; the shoe base containing a strap or straps having hook and loop attachment points 29; a shoe strap or straps containing hook and loop attachment pieces 28.

6. Claims 1-2, and 6-8 are rejected under 35 U.S.C. 102(b) as being anticipated by Smith 5,836,090. Smith '090 discloses all the limitations of the claims including the following: shoes 10 having exchangeable straps 16 with means for attaching and detaching the straps 54, 18, 59, 59'; the means of attaching and detaching straps comprising a guide loop attachment point 42 to which the straps containing a locking pin attachment piece 54 may be affixed; a shoe base 12;

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shoe strap or straps 16; means for joining shoe straps to the shoe base 59, 59, 54, 42; a shoe base containing guide loop attachment points 42; a shoe strap or straps 16 containing locking pin attachment pieces 54; a shoe base containing a strap or straps 18 having hook and loop attachment points (loop made by 18); a shoe strap or straps 16 containing hook and loop attachment points (see Figure 1 at big toe area, 59 and 59').

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Caligari et al GB 2,143,420 (GB '420) as applied to claim 3 above, in view of Phillips 6,769,204. GB '420 as applied to claim 3 above discloses all the limitations substantially as claimed except for the straps comprising hook and loop fasteners (or snap opening attachment points) to which other straps or a cover with hook and loop fasteners (or snap opening attachment points) may be affixed. Phillips '204 teaches that a strap that makes up an upper 134 of a shoe can have hook and loop fasteners 150 attached to the top surface to allow for other straps or a cover 156 with hook and loop fasteners 170 attached to its bottom surface to attach the one strap or cover to the other strap or vamp to allow for the user to change the appearance of the shoe. Therefore, it would have been obvious, to one of ordinary skill in the art at the time the invention was made, to place hook and loop fasteners, such as that taught by Phillips '204, to the top surface of the

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straps of GB '420 as applied to claim 3 above, to allow for the appearance of the strap to be changed to match the user's outfits. With respect to claim 5, since hook and loop and snaps are art accepted equivalents, it would have been obvious to use any equivalent fasteners to attach a cover to the straps of GB '420, as taught by Phillips '204, to allow the user to change the appearance of the straps to match their outfits.

### *Conclusion*

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure and are cited on form 892 enclosed herewith.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anthony Stashick whose telephone number is 571-272-4561. The examiner can normally be reached on Monday-Thursday 8:30 am to 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on 571-272-4562. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Anthony Stashick

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Primary Examiner  
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